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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,185	03/27/2000	George McBride	CARDIOBEAT-2	3796

7590

11/06/2002

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EXAMINER

KIM, PAUL L

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Applicati n No.	Applicant(s)	
	09/535,185	MCBRIDE ET AL.	
	Examiner	Art Unit	
	Paul L Kim	2857	

-- The MAILING DATE of this communication app ars on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 8, 9, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy and Shimadzu.

With reference to claims 1, 16, and 17, Bardy teaches a method of providing medical testing comprising: providing a central serving apparatus coupled to the Internet (fig. 1, part 16) that has access to test measurement software (col. 9, lines 19-24 & lines 37-43) and program algorithms (fig. 3, part 53), downloading measurement software by the Internet to the patient apparatus (fig. 7, part 97), uploading medical test measurement data to the server from the remote locations via the Internet (fig. 1, part 15 & col. 7, lines 27-40), selecting a computer program algorithm at the server to process the test data (col. 10, lines 27+), processing the medical measurement data in accordance with the selected computer program algorithm to produce test information (col. 7, lines 40-44 & col. 10, lines 32-35), and downloading the test information to a user coupled to the internet (col. 8, lines 22-33).

Bardy teaches placing sensors on the patient to collect measurement data (fig. 1, part 12), but does not teach providing sensor placement information to the

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patient, by multimedia, and providing diagnostic testing operation and sensor operability. Shimadzu teaches an online operating manual display for a measuring apparatus that uses multimedia to instruct users in operating the apparatus (abstract). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Bardy, to provide measuring apparatus user information to the patient by multimedia, as taught by Shimadzu, in order to assist patients unfamiliar with a test measuring apparatus, such as sensors, to make measurements more accurate.

With reference to claim 2, Bardy teaches providing a database accessible by the server and storing the information in the database (fig. 1, part 17).

With reference to claim 3, Bardy teaches receiving patient ID information for the data, storing information in the database, and associating it with patient ID (col. 15, lines 22-25).

With reference to claims 8 and 13, Bardy teaches receiving and downloading requests via Internet (col. 7, lines 23-26).

With reference to claims 9 and 14, Bardy teaches storing measurement software and testing information in memory located proximate to the server (col. 9, lines 53-54).

With reference to claim 15, Bardy teaches providing the test information as multimedia information displayable at the patient Internet apparatus (fig. 1, part 18 & col. 12, lines 20-25).

With reference to claim 18, Bardy teaches executing a verification routine to determine that the measurement data is valid data (fig. 10b, steps 135 & 136).

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3. Claims 4, 7, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy in view of Basso et al.

With reference to claims 4, 7, and 19, Bardy does not teach receiving a request for the information from a requester and determining if it has authorization. Basso et al teaches a medical system for receiving a request for the information from a requester and determining if it has authorization (col. 1, lines 7-14). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Bardy, so that the medical system has an authorization function, as taught by Basso et al, in order to prevent strangers from accessing sensitive and confidential information.

With reference to claims 5 and 6, Bardy teaches receiving and downloading requests via Internet (col. 7, lines 23-26).

4. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy in view of Sugimoto.

With reference to claim 10-12, Bardy does not teach un-installing software after uploading test measurement data. Sugimoto teaches an information processor that uninstalls software upon successful uploading of data (abstract). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Bardy, so that the medical system has an un-installing software feature after data upload, as taught by Sugimoto, in order to erase confidential information after each test procedure.

Response to Arguments

5. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-

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305-7468. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9722 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK
October 31, 2002


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800